

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Application Serial No. 78254559 "FRESHWATCH" Filed May 27, 2003

SYNGENTA Crop Protection, Inc.

Opposer,

v.

MIKOLA, JYRKI TAPANI JAMES

Applicant.

NOTICE OF OPPOSITION



04-15-2004

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #78

07/15/2004 SWILSON1 00000103 78254559
NOTICE OF OPPOSITION
01 FC:6402

300.00 DP

Syngenta Crop Protection, Inc., having its principal office and place of business at 410 Swing Rd., Greensboro, N.C. 27409 (hereinafter referred to as "Opposer"), believes that it will be damaged by registration of the trademark "FRESHWATCH", shown in Application Serial No. 78254559, filed May 27, 2003, for the goods set forth therein, in International Class 009 and hereby opposes same.

As grounds of opposition, it is averred that:

1. Jyrki Tapani James Mikola (hereinafter referred to as "Applicant") is not now and never was entitled to register as a trademark the trademark for which it seeks registration in the Application Serial No. 78254559, filed May 27, 2003 for the goods set forth therein, namely computer software as well as various other goods and services including business management, trade shows which are not the subject of this opposition but have been filed under Serial No. 78298439 by Applicant and are similar to the services offered by Opposer under its mark.

2. Applicant is not now and never was entitled to the use as a trademark the mark for which it seeks registration in the Application filed on May 27, 2003.

3. Since May 27, 2003, prior to both Applicant's first use and filing of said Application, Opposer has been and is now using the trademark "FRESHWATCH" in connection with the advertising and offering for sale and sale of seeds, agricultural seeds, produce services, business management, and computer programs related thereto.

4. Upon the introduction of the aforesaid products and services of Opposer into the market, said goods and/or services now are known and recognized by their trademark and associated with Opposer and its said products and services as a means by which said goods and/or services have become known to the public and their origin identified.

5. The trademark Applicant seeks to register so obviously resembles Opposer's mark(s) that, when applied to the goods and/or services of Applicant, confusion or mistake by and deception of consumers will clearly result, caused by the creation of the erroneous impression that Applicant's goods and/or services originate with or come from the same source as Opposer's goods and/or services, or are endorsed by, or are sponsored by, or are connected in some way with Opposer.

6. Applicant's adoption and alleged use of the trademark described above is without license or permission of Opposer.

7. Applicant's trademark is substantially identical to Opposer's trademark, identical in part, and is intended for use on the identical or related products of Opposer.

8. Applicant has no right to adoption of the mark as to exclude any use of the proposed mark by third parties.

9. Registration by Applicant of the trademark will lead the public to conclude, incorrectly, that Applicant has a superior right to use that mark in conjunction with the sale of seeds and herbicides and other products, all to the damage of Opposer and the public. Accordingly, any such registration is prohibited by 15 U.S.C §1052.

WHEREFORE, Opposer, prays that said Application be rejected, and that registration of the trademark in Application No. as a trademark to Applicant be refused and denied.

Opposer submits this Notice of Opposition in duplicate with the requisite \$300.00 filing fee.

Opposer hereby constitutes and appoints, James A. Zellinger, a member of the Bar of the State of North Carolina with an office at 410 Swing Rd., Greensboro, N.C., attorney for and on behalf of Opposer in the above-styled and entitled opposition, to prosecute said opposition, to transact all business with the Patent and Trademark Office and in the United States courts in connection with said opposition, and to sign its name to all papers which may hereafter be filed in connection with said opposition and to receive all official communications relating to the same.

Please send all communications to James A. Zellinger, Telephone Number 336-632-7835.

By: _____

James A. Zellinger
Trademark Counsel
Syngenta Crop Protection, Corp.
410 Swing Rd.
Greensboro, N.C. 27409

Dated:

STATE OF North Carolina
COUNTY OF Guilford



James A. Zellinger
Trademark Counsel

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Syngenta Crop Protection, Inc.
410 Swing Road
Greensboro, NC 27409

Tel 336-632-7835
Fax 336-632-2012
e-mail: jim.zellinger@syngenta.com

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April 13, 2004

Trademark Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 2327
Arlington, VA 22202

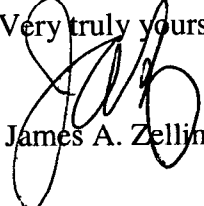
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Re: FRESHWATCH
Application No. 78254559; Filed May 27, 2003

Dear Sirs:

Please find enclosed an original and 1 copy of my client's opposition in conjunction with the above. A check in the amount of \$300 for payment of the opposition fee is also enclosed.

The Commissioner is hereby authorized to charge any additional fees under 37 CFR §1.17 which may be required, or credit any overpayment, to Account No. 50-2015 in the name of Syngenta Crop Protection, Inc.

Very truly yours,

James A. Zellinger

JAZ/sk
Encl.